

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	
)	FCC 03-323
)	

To: The Commission

REPLY COMMENTS OF THE COUNCIL OF THE GREAT CITY SCHOOLS

The Council of the Great City Schools, the coalition of 61 of the nation's largest central city school districts, requests the consideration of the following reply comments regarding the Commission's December 23, 2003 Third Report and Order and Second Further Notice of Proposed Rule Making (FCC 03-323).

The Council of the Great City Schools is pleased to submit comments to the Commission's December 23, 2003 Third Report and Order (Order) and Second Further Notice of Proposed Rule Making (FNPRM). The Council has long supported the effort and goals of the Commission to improve and streamline the E-Rate program, reduce mistreatment of the program's support, and ensure the fair distribution of intended benefits. The E-Rate program has no greater advocate than the city school systems that enroll the highest number of disadvantaged children, employ the largest number of teachers, and occupy the greatest number of school buildings. Specifically, the Council of the Great City Schools represents approximately 7.3 urban students, including 33% of the nation's minority students, 31% of the nation's English Language Learners, and 26% of the nation's children eligible for free and reduced-price lunch. The value of universal service is immeasurable for these students and the inner-city, where the E-Rate can be used to bolster shallow resources and enhance the delivery of modern educational instruction. The Council has offered its assistance to the Commission by providing input on past Notices and in public forums, and we offer the following reply comments as a follow-up to our response to the recent Order and FNPRM.

INTRODUCTION

The Council of the Great City Schools reaffirms the position stated in our original comments, and opposes any change by the Commission to lower the highest discount band for E-Rate reimbursements from 90% in the Internal Connections category. If adopted, this change will have a negative impact on the nation's poorest schools and districts, and is inconsistent with the original principles of the universal service program.

The most common arguments put forth in support of such a change during the initial comment period make the assumption that school districts that qualify for the 90% discount under the existing matrix have little or no regard for examining specific need and cost-effectiveness, and that a ten percent local contribution is not steep enough to force applicants to undertake such measures. Many of the commenters took this supposition one step further, and suggested that to make the poorest schools more accountable for their applications, they should be required to provide the same amount of their own funds as schools with lower, and in some cases even average, levels of poverty.

All school districts carefully consider their technology expenditures, and when dealing with the nation's poorest school districts, the ten percent local cost required for E-Rate projects represents a significant expense. Due to the loss of state and local funds as a result of the economic downturn, districts are already facing large operational funding gaps and annual reductions to technology funding supports. Regardless of whether projects are pursued with E-Rate or other funds, urban schools districts always work strenuously in pursuit of the best and most cost-effective technology solutions, and consistently push vendors for the best possible pricing models.

Reducing the discount from 90% to 80% and the ensuing doubling of costs, for example, will be difficult to absorb for some districts, and outright impossible to achieve for many schools. In Philadelphia, where 70% of the 264 total schools are eligible for the 90% discount, the increased local contribution will not be available anywhere other than the existing technology budget. The district will be required to cut the amount slated for other projects commensurate with any additional required match. This unnecessary and increased contribution is painful and would be difficult to attain for any enterprise; this is particularly true for the nation's disadvantaged educational institutions.

In Houston, increasing percentages of students in poverty make the school district particularly wary of any changes to the discount matrix. The Houston Independent School District (HISD) is the largest public school system in Texas and the seventh-largest in the United States, with 206,716 students attending 290 school buildings. An analysis of the importance of the 90% discount band for HISD is included in APPENDIX A, and demonstrates the significant harm that will be created if any change, small or great, is applied to the discount matrix.

Despite growing poverty in many areas and the economic downtown, a number of commenters were quick to suggest a decreased discount for the poorest schools. Such a change would not only affect a district's ability to make use of the E-Rate benefits, but

also its ability to use their local money for items not eligible for reimbursement. Doubling the obligation to 20% entails serious reconsideration of existing budget expenditures, and inevitably would decrease the availability of money previously allocated for PCs, printers, software applications, and teacher training in technology. In the past, districts counted on the universal service fund for connectivity and maintenance, and purchased other items with local funds to ensure that the E-Rate investment was effectively used. If the future requires increased contributions, E-Rate projects (including maintenance), or the accompanying expenditures on associated technology costs, will be curtailed in the poorest schools. In some cases, since neither of those costs are effective without the assistance of the other, there may be instances where technology investment is abandoned entirely.

IMPLICATIONS OF A NEW AND REDUCED DISCOUNT LEVEL

Unanimous Agreement on What Works

In reviewing the comments, the Commission likely found that there was unanimous consent on one topic: that the recent rule changes restricting eligibility for internal connections to twice-every-five years, as well as limiting equipment transferability for three years, will allow a substantial amount of universal fund reimbursements to reach more applicants below the 90% level. While the agreement ended there, and many commenters went on to suggest the Commission make further changes, we stand firm in our position that the rule changes in the Third Report and Order will address the issues that have stretched the internal connections fund in the past, and that any further modifications are unnecessary. More importantly, additional changes, such as a reduction in the top discount tier, would not address the issue sufficiently.

The Schools and Libraries Division recently announced their demand estimates for Funding Year 2004. Priority One services are estimated at \$1.6 billion, which, with a \$2.25 billion annual cap, would allow \$625 million to remain to fund the requests for Internal Connections. Approximately \$1.3 billion in 90% requests for internal connections were estimated by SLD, with an additional \$1.1 billion of internal connections requests from 80% discount applicants.

If an estimated half of the 90% applications are denied in 2004, the \$625 million remainder may be enough to meet all of the top band's internal connections requests, albeit just barely. But requiring an additional 10% match from the districts at the 90% level would only produce an additional \$62.5 million for the 80% discount band – hardly significant compared to the 80% internal connections request of \$1.1 billion. Increasing the non-discounted share by 20%, and thereby requiring a 30% match for the poorest schools, would still not provide sufficient funds to address a significant portion of the applicants at the 80% level.

Not only is there agreement that the Commission's new rule limiting internal connections support will achieve the goal of providing significantly more reimbursements for applicants below the 90% discount tier, the recent announcement by the Schools and

Libraries Division that Internal Connections reimbursements will reach the 70% discount level for the first time demonstrates that additional changes are not needed. Funding commitments are now available to applicants in a broad range of discount bands; a trend that will likely continue when the widely-supported changes from the Third Report and Order are implemented in the upcoming funding years. An additional change that will have a clear and negative impact on the poorest applicants, that does not have broad support, and does not address the issues that recent changes have already dealt with sufficiently, should not be pursued at this time.

Creating Expanded Markets for Business While Increasing Costs for Schools

The Council is concerned by the support for lowering the discount matrix from its current level of 90% from a number of commenters. These comments may have correctly suggested that if increased financial participation is required of applicants for reimbursement, the result may be the additional availability of some E-Rate funds for entities below the 90% discount band. But they did not address the fact that this positive change would only come about if the nation's poorest schools are required to give more of their own funds to demonstrate that they are truly in need. The same commenters also did not disclose that requiring greater financial participation from fiscally-strapped schools and libraries will in fact expand the market, if not the profit margin itself, that private companies derive from the program.

Under any reduction of the discount matrix, the amount of E-Rate reimbursements for internal connections would remain the same – approximately \$1 billion in FY 2002 and FY 2003 – but the additional funds that the poorest schools, districts, and libraries will have to find to leverage that amount will be increased, and will be delivered directly to private companies. Many commenters discussed the strong need for the Commission to increase the “buy-in” amounts for the poorest schools in the nation, but were silent on the fact that this change would demand that more money be taken away from those that need it the most, and transfer it to the profit margins of private sector companies.

The educational, financial, and operational harm to schools and libraries, and the ensuing financial benefits for companies, will be exaggerated the further the Commission moves from the 90% discount that has been in place since the program's inception. The table in ATTACHMENT B shows an example of how the proposed change would transfer funds away from public sector applicants, and create a windfall for private companies. In Funding Year 2002, the SLD provided almost \$852 million in 90% discounts for Internal Connections. If that same amount of E-Rate money required a 20% contribution from the local level, over \$118 million in increased funding would shift from the accounts of those entities serving the nation's poorest communities into corporate coffers.

Political Pressure in States to Make E-Rate Widely Available

One body of commenters that made a unanimous call for lowering the discount matrix were the states and their representative organizations, who no doubt receive endless political pressure from school districts and service agencies that have not yet been able to

capitalize on the E-Rate's benefits. But it is the state agencies' susceptibility to political pressure to spread money broadly that led the Congress to require that large educational programs be directed to the local level based on poverty, as is the case with Title I, Reading First, Teacher Quality programs, and the Individuals with Disabilities Education Act (IDEA) in part.

The willingness of state agencies to circumvent their responsibility to provide assistance to districts with need was highlighted by the American Institutes for Research in a report on federal competitive grants, and is a major factor in the decision of Congress to target poverty to the local level through federal funding formulas. The regularity with which many states avoid targeting funding based on need, and surrender to the political pressure of non-poor districts, can also be reflected in the ongoing number of state education finance litigation cases around the country. At the same time that state agencies are trying to allow the E-Rate to serve districts that fall outside of the program's focus on poverty, they are also facing litigation and legislation that would force them to provide adequate education funding for the poorest schools and communities. Their call for more "equitable" E-Rate funding of non-poor school districts strikes us as rather ironic.

Other Federal Programs Focused on "Need"

The Council also refutes the statement made by Funds for Learning (FFL) that a reduction in the discount matrix would align the E-Rate with other federal technology programs. While we disagree with their characterization of Title I, a program focused on raising the academic achievement of disadvantaged students, as a school technology program, Funds for Learning was correct in their comments that the federal government lowered the 50% threshold for schoolwide Title I programs to 40% in the No Child Left Behind Act (NCLB). However, this action was not taken by Congress to provide Title I funds to ineligible students. This change merely allowed local school districts further flexibility in their ability to provide services to disadvantaged students.

Furthermore, along with the passage of NCLB in 2001, Congress for the first time used highly-weighted education funding formulas to distribute Title I and other federal programs. The result was a shift that contradicts entirely the statement of FFL, and represents an increased congressional emphasis on targeting federal assistance to the school districts with the highest concentrations of poverty. Similar to the E-Rate, the demand and need for Title I far exceed the amount of money allocated by the federal government, and lowering the discount bands for the E-Rate would actually result in a misalignment of national priorities. Such a move would represent a shift away from the bipartisan congressional decision to focus limited federal assistance to the schools and districts with the greatest need. Interestingly, Funds for Learning did not reference the Education Technology State Grants, the sole NCLB program that focuses exclusively on technology assistance, in their comments. This technology program was also modified by Congress in 2001, and unlike its previous incarnation, was reauthorized with a poverty factor to ensure that funding is delivered to the nation's poorest districts.

Finally, the same commenters were also incorrect in their reference of federal Qualified Zone Academy Bonds as a parallel to the E-Rate, since that program does not intend to serve needy schools. First, the 35% requirement is a level that an applicant must exhibit simply to apply for this tax credit program, and in no way indicates eligibility for a certain level of funding, as the use of similar data does in the E-Rate program. Also, the stipulation that schools have at least 35% of their students eligible for the National School Lunch Program is just one of a number of broad definitions that a school may meet. As the Council stated in our initial comments on the FNPRM, the 35% level represents the national average for participation in the school lunch program, and has never been seen as a definition of “needy,” as indicated by FFL.

The legislative language authorizing the QZAB program demonstrates this broad intention, and the distinction from the targeted E-Rate program, by defining beneficiaries as, “any public school (or academic program within a public school) which is established by and operated under the supervision of an eligible local education agency.” An eligible school district, as defined by the QZAB program, is any public school district (see ATTACHMENT C), and is not a targeted definition comparable to the E-Rate.

Harming the Poorest Applicants to Assist the Less Poor

While the Council appreciates the support of a mostly state-focused organization in determining what’s best for our local interests, we reject the implication that increasing our total funding is a good reason to support the desertion of our poorest schools. By suggesting in their comments that “large city school districts with individual schools at a range of discount rates would stand more to gain by the increased funding of their lower discount schools than they would lose by a reduction in funding for their highest discount schools,” E-Rate Central continues to make the erroneous argument that urban schools have consistently defended themselves against. Urban districts have schools located in a range of universal service discount bands, and would like to see as many of them benefit from the E-Rate as possible. But the Council has always asserted that the Commission should find a way to assist those below 90% without imposing a financial penalty, or in some cases abandoning completely, the absolute poorest schools in the nation.

Urban districts with a more level distribution of discount bands, quite candidly, understand the benefits of making additional funding available to the lower bands. However, since sacrificing 10% or even 20% in additional matching investments from the poorest schools would not provide districts with a substantial increase for a newer discounted band, the negative impact provides insufficient merit for legitimate consideration of such a reduction.

CONCLUSION

The work of the Commission to ensure the availability of universal service reimbursement to the greatest number of schools and students is commendable, but the Council simply does not agree with the often-stated comment that the nation’s poorest school districts merely seek the highest funding commitment from the program every

year. No school or district can, or does, use funding received as an indicator of success. Progress will only be measured by the ability to improve student achievement. In urban school districts, the availability of technology tools allow students to spend time on tasks related to their education, and E-rate funding has been a primary factor in the ability of many districts to provide such an environment. The E-rate has allowed more equity of access in urban schools, in terms of wider distribution in the district and within schools, and a higher quality of access, in terms of speed and bandwidth available. The result of such benefits can only mean an increased time for learning and educational activities for students in all classes, and an increased opportunity to raise the achievement of our children. In terms of education goals for students, teachers, administrators, parents, and the public, this is the only bottom line.

Computer fluency is a necessity for students, and not a luxury. Urban schools, and the children that attend them, need the support of every dollar that is spent on their education, and current funding levels are often not enough. An increased burden requiring a greater local contribution in order to receive E-Rate benefits is unrealistic for many urban schools and districts. The negative financial impact stemming from a change in the E-Rate discount matrix will also be coupled with the ongoing decline of revenues from state and local sources due to the economic downturn. The inevitable result will be a slowdown of the technology services in urban schools, which will likely cause them to fall behind in their attempt to close the digital divide; the very technology gap that the E-Rate was created to help bridge.

While the Council has long supported the Commission's intent to provide E-Rate benefits to a broader range of the nation's poor schools, such availability should not be enacted by altering the structure of the discount matrix and increasing the financial burden for the highest-poverty districts. The effect on the use of technology in urban education curriculums, and among the urban student population that is most at risk, is potentially devastating. The Commission should not enact any rules that will bring about such changes, since these technology-assisted learning environments are vital for students to become a part of the new economy's skilled work force.

Respectfully submitted,

Michael Casserly, Executive Director

Address:

Council of the Great City Schools
Suite 702
1301 Pennsylvania Avenue, NW
Washington, DC 20004
202-393-2427 (phone)

APPENDIX A

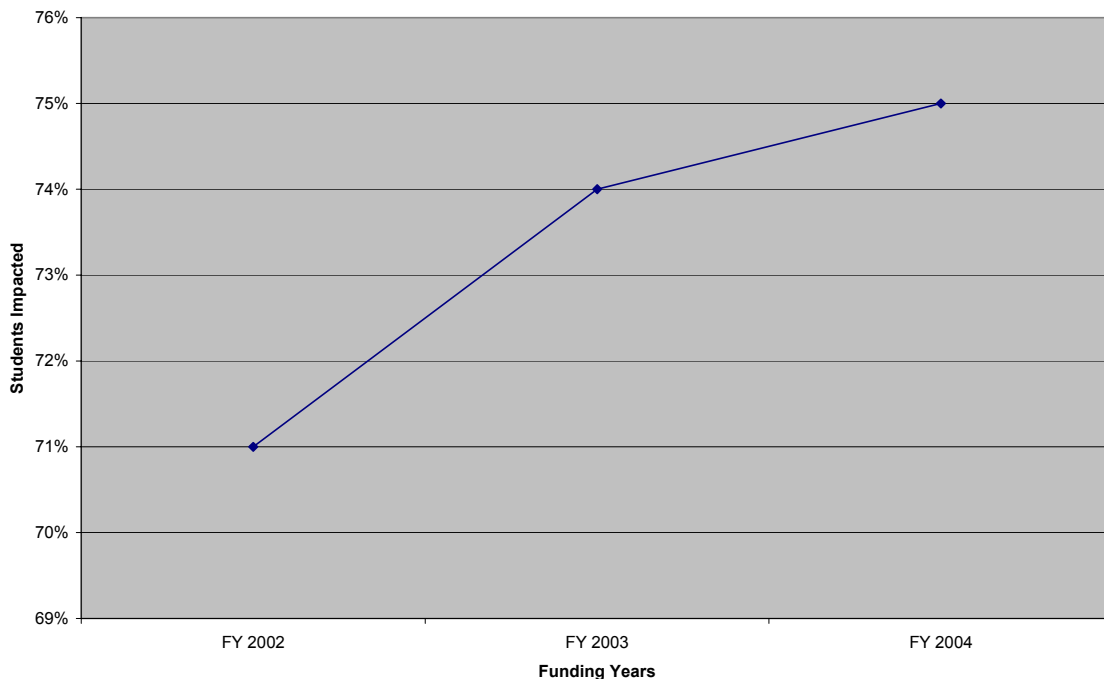
ANALYSIS OF THE SIGNIFICANCE AND HARM OF A REDUCTION TO THE DISCOUNT MATRIX TO THE HOUSTON INDEPENDENT SCHOOL DISTRICT

Significance

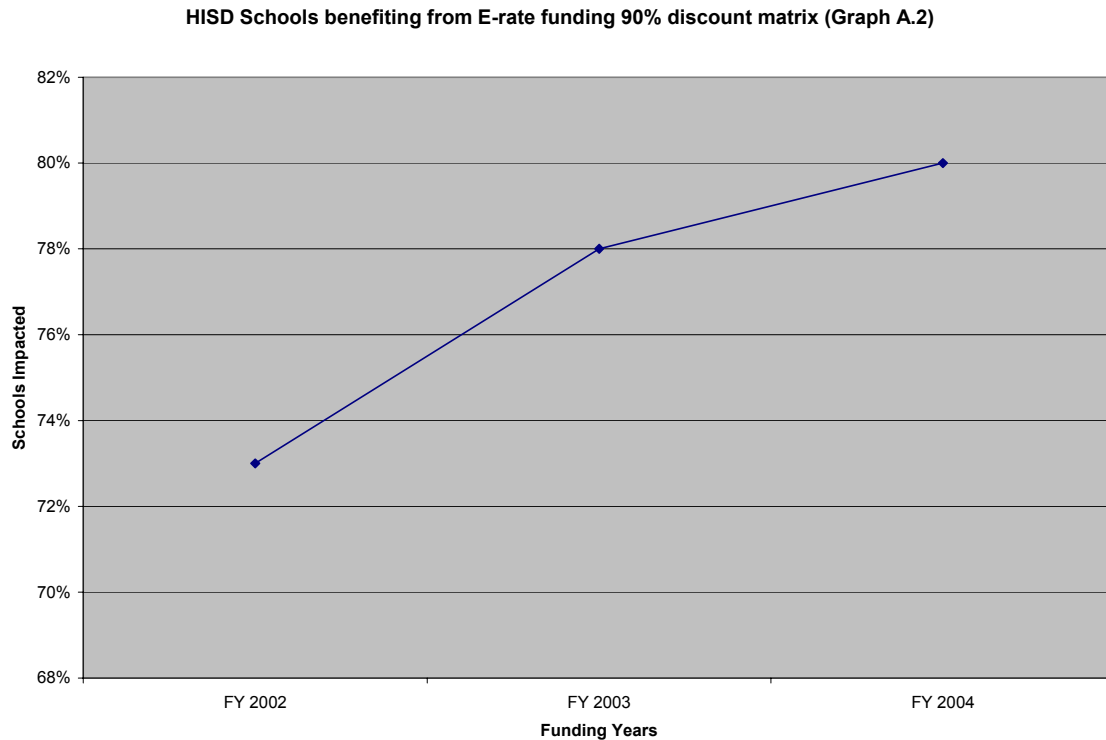
Without a doubt, E-rate funding has played a pivotal role in closing the “digital divide” for Houston ISD. With 206,716 students attending 290 Houston ISD schools, the district would face an impossible financial task of providing a technology infrastructure to the schools in the district. Furthermore, with the vast majority of Houston ISD students qualifying for the federal Free/Reduced Lunch program, many students in the district have no access to technology resources except as provided by the school. Currently, 154,058 students for Funding Year 2004 will benefit from the current matrix if funding is approved.

It is important to note that there is an increasing trend of students in Houston ISD who qualify for the Free and Reduced Lunch program over the last three funding years (Graph A1). For example, 71% of students in Houston ISD (149,485 students) benefited from funding at the 90% level in Funding Year 2002. The percentage of the district’s students receiving E-rate funding at the 90% level increased to 74% (154,058 students) and 75% (156,254) for E-rate Funding Years 2003 and 2004, respectively.

HISD Students benefiting from E-rate funding 90% discount matrix (Graph A.1)



Furthermore, the greatest impact of a change in the discount matrix is evident when these student populations are viewed as a representation of the schools' populations (Graph A.2). For example, 73% of the schools in Houston ISD (216 schools) benefited from funding at the 90% level in Funding Year 2002. The percentage of the district's schools receiving E-rate funding at the 90% level increased to 78% (232 schools) and 80% (235 schools) for E-rate Funding Years 2003 and 2004, respectively.

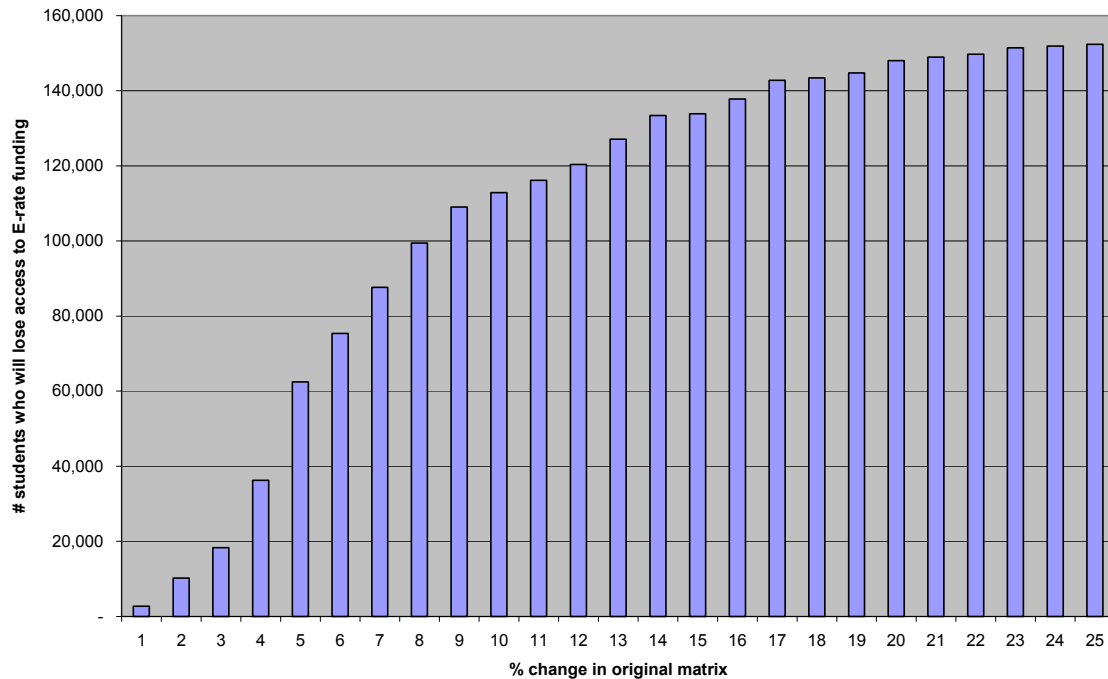


Harm

Clearly, an increasing trend of students benefiting from E-rate funding is noted over the last three funding years. As the trend continues to show increases for both disadvantaged students and disadvantaged schools, the potential impact to these populations could be overwhelming with respect to E-Rate funding if the discount matrix is changed. This trend is significant in that a potential inverse relationship would be created if funding at the 90% matrix level decreases while the number of students qualifying at the 90% level increases.

Moreover, a change in the discount matrix would be antithetical to the trend that has been occurring in Houston ISD schools that qualify for E-rate funding. The result of a change in the discount matrix to 80% is that approximately 40,000 students will no longer benefit from E-rate funding. Therefore, for every 1% lowering of the discount matrix, approximately 6,000 students could be deprived of benefits received through E-Rate funding (Graph A.3).

Impact of students for each 1% change in 90% discount matrix (Graph A.3)



Finally, the proposed change in the discount matrix would eliminate plans to continue various projects to offer students greater access to digital resources, including multi-year projects initiated with E-rate funding. For example, the development and deployment of the HISD Fiber WAN network is a multi-year E-rate project that would be discontinued if the discount matrix is lowered. Students and schools would potentially cancel plans to participate in distance learning, which employs streaming video. In addition, plans for videoconferencing would be cancelled, denying students access to a broader range of courses, and further widening the digital divide.

Consequently, the loss of E-rate funding to Houston ISD schools due to a change in the discount matrix would undermine the district's technology plan. The result would be a major re-shifting of priorities to low-level solutions and the elimination of many initiatives dependent on E-rate funding.

For additional information regarding Houston ISD's opposition to the proposed change, please contact any member of the E-Rate team at (713) 892-7880.

Respectfully submitted,

Bill Edwards, Assistant Superintendent, Houston Independent School District

cc: Laura Palmer, Jacqueline Martin, Joel Castro; Technology and Information Systems

APPENDIX B

EXAMPLE OF SHIFT IN THE DISTRIBUTION OF FUNDS FOR E-RATE
PROJECTS AS A RESULT OF A REDUCTION IN THE
DISCOUNT MATRIX TO 80%

	90% Discount	80% Discount	Resulting Increase
Internal Connections Reimbursements	\$851,837,967	\$851,837,967	\$0
Applicant Contributions	\$94,648,663	\$212,959,492	\$118,310,829
Total Amount Paid to Private Sector	\$946,486,630	\$1,064,797,458	\$118,310,829

APPENDIX C

DEFINITION OF LOCAL EDUCATIONAL AGENCY

Elementary and Secondary Education Act of 1965

TITLE XIV--GENERAL PROVISIONS

PART A--DEFINITIONS

SEC. 14101. DEFINITIONS.

Paragraph (18). Local educational agency.--

(A) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

(B) The term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs but only to the extent that such inclusion makes such school eligible for programs for which specific eligibility is not provided to such school in another provision of law and such school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that such school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.